

**Draft Summary of the Plenary Group Meeting  
Oroville Facilities Relicensing (FERC Project No. 2100)  
September 24, 2001**

The Department of Water Resources (DWR) hosted the Plenary Group meeting on September 24, 2001 in Oroville.

A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present an informational summary for interested parties who could not attend the meeting. The following attachments are provided:

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Flip Chart Notes
Attachment 4	Significant Relicensing Milestones through January 2007
Attachment 5	Short-term Relicensing Activities
Attachment 6	Revised Draft Scoping Document 1
Attachment 7	Study Plan Template
Attachment 8	Study Coordination Matrix
Attachment 9	Settlement Agreement Task Force Update
Attachment 10	DWR Letter -- Settlement Agreement Task Force Activities
Attachment 11	Notice of Public Meeting and Site Visit

### **Introduction**

Attendees were welcomed to the Plenary Group meeting and objectives were discussed. The meeting agenda and list of meeting attendees with their affiliations are appended to this summary as Attachments 1 and 2, respectively. Meeting flip charts are included as Attachment 3.

The Plenary Group observed a moment of silence for the victims of the September 11, 2001 terrorist attacks in New York City, Washington, DC and Pennsylvania.

The Facilitator shared two graphics depicting long- and short-term Collaborative activities. The first graphic outlined the current progress of the relicensing effort and significant project milestones for the next five years. The second graphic detailed Scoping Document and Study Plan development activities for the next four months. She explained that there would be significant Task Force activity during November, December and January as individual Study Plans are developed. Additional activity will occur after the official comment period for Scoping Document 1 closes and comments are addressed. Rick Ramirez of DWR added that each schedule could be made part of the relicensing web site and updated on a monthly basis. One participant asked that terms in the schedules be consistent with those used in Scoping Document 1. Both schedules are appended to this summary as Attachments 4 and 5, respectively.

### **Action Items – August 30, 2001 Plenary Group Meeting**

A summary of the August 30, 2001 Plenary Group meeting is posted on the relicensing web site. The facilitator reviewed the status of action items from that meeting as follows:

<b>Action Item #P53</b>	Provide participants with updates of Work Group activities in summary form, preferably distributed with the Plenary meeting agenda or prior to the meeting. Post the summaries as abstracts attached to the appropriate Work Group meeting summary.
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Status: Abstracts of the Work Group meetings that precede the Plenary Group meeting will be posted on the relicensing web site and provided with each Plenary Group agenda. There were no Work Group meetings since the last Plenary Group meeting (most regular Work Group meetings were replaced with Task Force meetings specific to Study Plan development), so there are no abstracts provided with the Plenary Group agenda for this meeting.

**Action Item #P54** Provided comments to clarify or correct Administrative Draft Scoping Document 1 to DWR via relicensing web site address or via surface mail to the address provided in SD1.

Status: Comments were received on SD1 and are reflected in the revised document.

**Action Item #P55** Provide draft Riverbend Settlement Agreement language to the Plenary Group for review prior to next Plenary Group meeting.

Status: An update from the Riverbend Park Settlement Agreement Task Force is included in this meeting.

**Action Item #P56** DWR will consider providing a courtesy copy of relicensing Program Manager's (PM) analysis on Interim Projects to Plenary Group when forwarded to DWR Steering Committee.

Status: Rick Ramirez responded that he considered the request and determined that the PM's internal analysis should be kept within DWR. Rick explained that the independence of the PM's analysis might be compromised if it were made public. He reminded the Plenary Group that the PM's analysis accompanies the Plenary Group's recommendation and is simply additional information for the Steering Committee to consider.

One participant asked if interim project proponents would be able to see the PM's analysis after a decision has been rendered, and whether an appeal process would be developed for projects that were not implemented as an interim project. Rick responded that the goal of the collaborative process was to exchange views and information prior to any significant decision being made on any issue. DWR has not considered an appeal process and does not want to set up an additional iterative review process for interim projects. He pointed out that project proponents can participate at every level of the collaborative process and should therefore be aware of the status of their project prior to any DWR action. He added that DWR would work with project proponents to develop additional information for the PM's analysis as required. He reminded the Plenary Group that an interim project not selected for early implementation would be considered during development of the long-term Recreation Management Plan developed during the relicensing process.

One participant asked if the project selection process and DWR's discretion to approve or deny recommendations made by the collaborative for interim projects would be applied to other collaborative decisions. Rick responded that the project approval process described at the last meeting was specific to the interim projects while the Process Protocols contain guidelines for general collaborative process procedures. He added that DWR has discretion to approve interim projects much like some agencies have mandatory conditioning authority in the relicensing process. However, through the collaborative process and open discussion of issues, discretionary actions can be minimized.

## Scoping Document 1

Rick Ramirez detailed the major changes in Scoping Document 1 (SD1) from the previous draft including editorial and clarifying changes, details regarding Scoping meetings and the site tour, and revisions to figures 2, 3 and 4, and the addition of Appendix C. He explained that Appendix C includes the additional issues, concerns, and comments currently under review but not included in Appendix B. He emphasized that draft SD1 reflected DWR's response to comments received at the last Plenary Group meeting and from individuals prior to the September 12, 2001 deadline. The Butte County Relicensing Team, National Park Service, and State Water Contractors provided comments prior to the deadline.

Roger Masuda representing Butte County observed that according to the schedule, Scoping Document 2 (SD2), which includes a description of the proposed project and project alternatives, will be completed in January 2003 but the settlement discussions will not be concluded until July 2003. He asked how the CEQA/NEPA process accommodated potential changes to the project description resulting from settlement negotiations. Wayne Dyok responded that it is the applicant's desire to have agreements developed early in the process for inclusion in the final license application. However, these are dynamic processes that often result in agreements made later in the process and accommodated in a supplemental submittal. He added that SD2 needed enough specificity to develop a preferred alternative but that revisions can be considered and included in later versions of SD2.

One participant asked if the boundary in Figure 4 included only project facilities or the area of project impact as well. The participant also asked why the low flow section of the Feather River is not included in the boundary but the Wildlife Area is. Rick Ramirez responded that Figure 4 depicts the boundary of the current FERC License (P2100) and includes the facilities described in the license. He added that the legal description of the project does not include the areas impacted by project operations, however, those areas will be included in individual Study Plans evaluating effects of existing and future Project operations on resources. Ward Tabor of DWR added that it is unclear why the low flow section was not included in the original FERC boundary. The Wildlife Area was included because it served as a borrow area for dam construction material and mitigation for facility operation impacts. DWR agreed to clearly identify the boundary in Figure 4 as the current FERC boundary and clearly identify all facilities in the project description.

Jon Rubin, representing the Santa Clara Valley Water District, asked if agencies with mandatory conditioning authority would raise their concerns during the negotiation process. Rick Ramirez responded that the goal of the collaborative process is to get an understanding of agency intentions early in the process. In some cases, the agencies may respond late in the process to information that is not currently available. However, it is likely that the agencies can give broad guidance to the collaborative reasonably early in the process. Sharon Stohrer of the State Water Resources Control Board (SWRCB) confirmed that this is the goal of her agency. She informed the Plenary Group that SWRCB was required to address the Section 401 guidelines of the Clean Water Act and would not be a signatory to the settlement agreement but she is working closely with the Environmental Work Group in the development of Study Plans sufficient to meet SWRCB needs. The Facilitator reminded participants that both the Forest Service and the SWRCB had stated at previous meetings their desire to help the collaborative develop Settlement Agreements that meet their respective regulatory requirements and both have been actively participating in the collaborative process.

Sharon Stohrer asked if the Study Plans would accompany SD1 and would therefore be subject to public comment. Rick Ramirez responded that once Study Plans were developed they would be included in subsequent versions of SD1 but the public would not be asked to comment since the public is fully engaged in Study Plan development through the collaborative process. A request was made to provide SD1 in electronic format. Rick Ramirez responded that SD1 would be available on the relicensing web site, and would also be provided to the Plenary Group on CD, upon request. Scoping Document 1 is appended to this summary as Attachment 6.

The Plenary Group agreed to release Scoping Document 1 to the public for review and comment. Comments on SD1 are due in writing to DWR by 5:00 p.m. on November 26, 2001.

### **Primary Framework for Study Plan Coordination**

Steve Nachtman of the relicensing team distributed two documents outlining Study Plan coordination. The draft documents were developed in response to Plenary Group requests for coordination and tracking between the Work Groups as they write Study Plans. Steve commented

on measures built into the process to help avoid redundancy in Study Plan efforts, including periodic meetings of Resource Area Managers, use of the study coordination matrix and the Study Plan template. Steve added that RAMs would provide input to the Study Coordination Matrix as Study Plans are developed. He indicated that the package submitted to the Plenary Group would include completed Study Plans and a completed Matrix. Nan Nalder representing the State Water Contractors suggested that a critical path diagram would be helpful if included with the matrix to show how elements from the various Study Plans work together. Wayne Dyok indicated that the consulting team and DWR are currently developing a critical path diagram. The Study Plan template and the study coordination matrix are attached to this summary as Attachments 7 and 8, respectively.

Jon Rubin asked if the Study Plan template would be utilized to determine if the study has a nexus to project operations. Steve Nachtman responded that each individual study could utilize the template differently. In some cases a study may not have a nexus to the project but may be required by law (for example, compliance with the Americans with Disabilities Act). He added that the process could also help differentiate between studies and potential settlement agreement issues. Steve mentioned that the Recreation and Socioeconomics Study Development Task Force completed an exercise to identify studies that should be done in the first year of investigations and studies that could wait for the second year. Delaying some studies could help the Plenary Group determine whether the studies are needed. Steve reminded the Plenary Group that the Process Protocols have methods for resolving disagreements in the event that a Work Group or the Plenary Group cannot determine if an issue should be studied. The goal is to resolve disagreements about Study Plans at either the Task Force or Work Group level.

Richard Roos-Collins asked how the Work Groups would deal with cumulative impacts analysis. Wayne Dyok responded that this is a critical issue and suggested that the other Work Groups could task the Environmental Work Group with developing an approach to cumulative impacts analysis for implementation. He added that the Environmental Work Group must respond to Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) Endangered Species Act (ESA) requirements and therefore is already beginning to address cumulative impacts issues. Wayne reported that NMFS and FWS are scheduled to give a presentation on ESA to the Environmental Work Group on September 26, 2001. He suggested that a discussion of cumulative impacts analysis could be initiated with the presentation. He stressed that development of cumulative impacts Study Plans do not need to begin before early 2002. An early 2002 target date for developing cumulative impacts Study Plans allows the Plenary Group and Work Groups to focus on developing individual Study Plans.

DWR agreed to make the ESA presentation from the Environmental Work Group meeting available to the Plenary Group.

### **Riverbend Park Interim Project Settlement Agreement**

At the August 30, 2001 Plenary Group meeting, a Task Force was established to develop draft Interim Settlement Agreement language for the Riverbend Park Interim Project. Scott Lawrence of the Feather River Recreation and Parks District provided an update on the Interim Settlement Agreement Task Force progress to date. A copy of the report is appended to this summary as Attachment 9. A letter from DWR also recounting the efforts of the Interim Settlement Agreement Task Force was distributed to the Plenary Group and is appended to this summary as Attachment 10. Scott reported that the Interim Settlement Agreement Task Force met twice in August but had not reached consensus on draft Interim Settlement Agreement language for Plenary Group consideration. The Interim Settlement Agreement Task Force agreed to prepare a draft Interim Settlement Agreement for Plenary Group consideration at their next meeting. Scott mentioned that the Riverbend site tour for the State Water Contractors has been rescheduled for October 11,

2001. Craig Jones added that the tour would be very helpful for the State Water Contractors in making their decision on support for Riverbend.

The Plenary Group considered the date of their next meeting (October 17, 2001) and agreed to reschedule it for November 1, 2001 in order to provide the Interim Settlement Agreement Task Force additional time to prepare the draft Interim Settlement Agreement for Plenary Group review. The Plenary Group agreed to defer any decision on Riverbend Park until after approval of an Interim Settlement Agreement.

### **Recreation and Socioeconomics Interim Projects Task Force Update**

Steve Nachtman reported that the Interim Projects Task Force met on September 21, 2001. He informed the Plenary Group that the Task Force has not reported the results of their work to the Recreation and Socioeconomics Work Group, and therefore it would be inappropriate to provide those results to the Plenary Group at this time. He did mention that the Interim Projects Task Force, utilizing the criteria described in a previous Plenary Group meeting, had completed a preliminary ranking of the interim projects. He added that the Task Force had identified projects that can be considered interim projects and projects that may be considered early implementation projects, based on information derived from first year studies. Interim projects could be implemented without delay, while early implementation projects would benefit from studies done by the Recreation and Socioeconomics Work Group. Both types of projects would become part of settlement agreements.

Harry Williamson of the National Park Service cautioned the Plenary Group against implementing too many projects prior to the conclusion of the study process. He explained that DWR will be doing extensive recreation studies as part of relicensing and will clarify demand for specific types of recreation improvements. He stressed that recreation demand should drive the process, not the desire to build a few projects in the near term. Scott Lawrence, emphasizing that while he advocates for the development of Riverbend Park, he agrees that it is important to make sure resources are available to develop a good Recreation Management Plan.

Sharon Stohrer voiced concern that the cost of the interim projects might compromise the resources available to perform studies and fund protection, mitigation and enhancement (PM&E) measures.

Jon Rubin asked DWR and the consultants to provide definitions for the terms 'interim project' and 'early implementation project'. Rick Ramirez agreed and suggested that more information on the efforts of both the Interim Settlement Agreement and the Interim Projects Task Forces needs to be brought to the Plenary Group. Rick added that DWR could also provide information on projects that are presently being implemented (bathroom renovations, boat ramp extensions, etc.). Sharon Stohrer asked DWR to consider providing data on the potential impact interim projects might have on the total relicensing effort as a percentage of expected expenditures. She added that the assessment need not be exact but could represent orders of magnitude.

### **Updates on Relicensing Work Groups and Task Forces**

Work Groups have not met since August 30, 2001; therefore, updates were not provided.

### **Next Steps – Logistics of Scoping Site Tours and Meetings**

The Plenary Group was provided with an informational announcement for the release of Scoping Document 1, the upcoming Site Visit and Public Scoping Meetings. The meetings and Site Visit correspond with the release of SD1 and conform to NEPA/CEQA requirements. The announcement is appended to this summary as Attachment 11.

#### Site Visit:

October 29, 2001  
8:00 a.m. to 4:00 p.m.  
Lake Oroville Visitors Center  
917 Kelly Ridge Road

#### Public Scoping Meetings:

October 29, 2001  
6:00 p.m. to 9:00 p.m.  
The State Theatre  
1498 Myers Street  
Oroville, CA

October 30, 2001  
1:00 p.m. to 4:00 p.m.  
Secretary of State Building – Auditorium  
1500 11<sup>th</sup> Street  
Sacramento, CA

#### Next Meeting

The Plenary Group agreed to meet on:

Date: Monday, November 1, 2001  
Time: 5:00 p.m. to 9:00 p.m.  
Location: To be announced

#### Agreements Made

1. The Plenary Group agreed to release Scoping Document 1 to the public for review and comment.
2. The Plenary Group agreed to cancel its October 17, 2001 meeting and rescheduled it for November 1, 2001 to allow the Task Force time to complete the draft Interim Settlement Agreement and distribution to the Plenary Group in advance of the next meeting.

#### Action Items

The following list of action items identified by the Plenary Group includes a description of the action, the participant responsible for the action, and item status.

**Action Item #P57:** Include new relicensing schedule on relicensing web site. Update schedule on a monthly basis.

**Responsible:** DWR Staff

**Due Date:** On-going

**Action Item #P58:** Revise Figure 4 in SD1 to clearly identify the current FERC boundary and the facilities included in the existing project description.

**Responsible:** DWR Staff

**Due Date:** September 24, 2001

**Action Item #P59:** Distribute draft of SD1 to the Plenary Group on CD upon request.

**Responsible:** DWR Staff

**Due Date:** upon request

**Action Item #P60:** Make available to the Plenary Group the NMFS/FWS ESA presentation from the Environmental Work Group.

**Responsible:** DWR Staff

**Due Date:** Post with Environmental Work Group Summary on web site and e-mail notice the Plenary Group.

**Action Item #P61:** Provide information on projects presently being implemented by DWR and/or DPR.  
**Responsible:** DWR Staff  
**Due Date:** November 1, 2001

**Action Item #P62:** Define Interim Project and Early Implementation Project.  
**Responsible:** DWR Staff and Consultants  
**Due Date:** November 1, 2001